

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| Applicant: Perriann M. Holden |) | Art Unit: 3765 |
| |) | |
| Serial No.: 10/695,223 |) | Attorney |
| |) | Docket No.: 810101-3 |
| Filed: October 28, 2003 |) | |
| |) | |
| Title: Protective Attachment |) | |
| |) | |
| |) | |

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop: Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attention: **Alissa Hoey**
 Examiner
 (703) 308-6094

Dear Examiner Hoey:

Responsive to the Election/Restriction Requirement mailed February 8, 2007, Applicant elects with traverse to prosecute claims 36-54 drawn to a pad adapted to have removably adhered thereto a ground contacting protective base.

CERTIFICATE OF TRANSMITTAL UNDER 37 C.F.R. § 1.8 (a)

I the undersigned, JERRY R. POTTS hereby certified that, on the date shown below, this correspondence is being electronically transmitted to the United States Patent and Trademark Office or facsimile transmitted to the United States Patent and Trademark Office or deposited with the United States Postal Service, addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 as "Express Mail Post Office to Addressee" Label No: _____.

Date: February 25, 2007

Signature _____

Attorney for applicant respectfully request reconsideration regarding the election/restriction requirement imposed by the examiner as the subject matter claimed in the present application have a common design, which common design is reflected in claim 36, which the examiner has stated is generic.

In further response to the election restriction requirement, Applicant selects, with traverse, to prosecute claims 47-49 and 51 directed to a foot protector as denoted by the examiner and further applicant select claim 46 directed to the magnetic cushioning material.

In summary then, under 35 U.S.C. 121, applicant elects, with traverse, to prosecute group I directed to claims 36-54, drawn to a pad, classified in class 2, subclass 267. Moreover, since group 1 has been selected, attorney for applicant further selects those claims in subgroup d directed to calims 47-49 and 51. Applicant has further selected claim 46 which is depends from claim 36, which claim 46 is directed to the magnetic cushioning material.

Attorney for applicant understands that upon the allowance of a generic claim, that applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all of the limitations of an allowable generic claim as provided by 37 CFR 1.141.

Attorney for applicant has taken note that the examiner states that claim 50, which depends from claim 37 defines a ground contacting base having a durable and flexible character. The specification, contrary to the assertion of the examiner, clearly states that the ground contacting base exhibits both

characteristics as specified in claim 50. In this regard, the examiner is referred to paragraphs [0046] and [0048] which provide in pertinent part the following: "Protective shells 70, 80 and 90 are respectively shown in FIGS. 15, 16 and 17. As shown in FIG. 15, protective shell 70 comprises durable outer surface 71 which is shaped to fit the contour of the human knee. Protective shell 70 further includes a middle layer of impact absorbing padding 72 and inner surface 74, which is also shaped to fit the contour of the knee. Thistle cloth 73 at least partially covers inner surface 74 and engages complimentary thistle cloth 66 on bottom surface 63 of pad 60." Also in paragraph [0048] "As with protective shells 70 and 80, protective shell 90, shown in FIG. 17, comprises durable outer surface 91 which is shaped to fit the contour of the human shin. Protective shell 90 further includes a middle layer of impact absorbing padding 92 and inner surface 94, which is also shaped to fit the contour of the shin."

From the forgoing there is antecedent basis for claiming "a ground contacting base which has both a durable character and a flexible character. Therefore claim 50 is properly dependent upon claim 37, which in turn is dependent upon generic independent claim 36.

Conclusion

Therefore, all claims presently on file in the subject application are in condition for immediate allowance, and such action is respectfully requested. If it is felt for any reason that direct communication with Applicant's attorney would serve to advance prosecution of this case to finality, the Examiner is invited to

Call the undersigned Jerry R. Potts, Esq. at the below-listed telephone number.

Dated: February 25, 2007

Respectfully submitted,

Jerry R. Potts & Associates

By: _____

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